

**ENTERED**

January 10, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

DEREK D. SMITH,

Plaintiff,

VS.

CORPUS CHRISTI POLICE DEPARTMENT,  
*et al.*,

Defendants.

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CIVIL ACTION NO. 2:22-CV-00297

**ORDER ADOPTING MEMORANDUM & RECOMMENDATION**

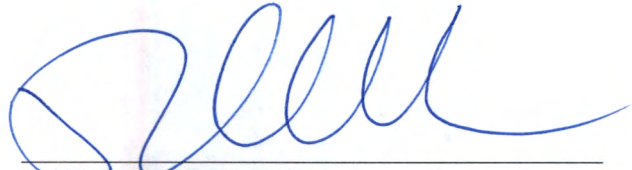
Before the Court is Magistrate Judge Julie Hampton's Memorandum and Recommendation ("M&R"). (D.E. 3). The M&R recommends that the Court **DISMISS** Plaintiff Derek Smith's complaint for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii) or, alternatively, that the Court order Plaintiff to file an amended complaint. (D.E. 3, p. 1).

The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. No objection has been filed. When no timely objection has been filed, the district court need only determine whether the Magistrate Judge's M&R is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam); *Powell v. Litton Loan Servicing, LP*, No. CIV. A. H-14-2700, 2015 WL 3823141, at \*1 (S.D. Tex. June 18, 2015).

Having carefully reviewed the proposed findings and conclusions of the Magistrate Judge, the filings of the parties, the record, and the applicable law, and finding that the M&R is not clearly erroneous or contrary to law, the Court **ADOPTS** the M&R's recommendation that the Court order Plaintiff to file an amended complaint. (D.E. 3, p. 1). Accordingly, the Court **ORDERS** Plaintiff to file an amended complaint, addressing the deficiencies stated in the M&R, by **February 10,**

**2023.** Plaintiff's failure to file an amended complaint by the date stated may result in Plaintiff's suit being dismissed for failure to prosecute and/or comply with a court order. *See* FED. R. CIV. P. 41(b).

SO ORDERED.



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DAVID S. MORALES  
UNITED STATES DISTRICT JUDGE

Signed: Corpus Christi, Texas  
January 10<sup>th</sup>, 2023